

EXHIBIT 1

State Attorneys General Said to Be Near Formal Investigation of Tech Companies

By Steve Lohr

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The state attorneys general in more than a dozen states are preparing to begin an antitrust investigation of the tech giants, according to two people briefed on the discussions, increasing pressure on the companies.

The bipartisan group of attorneys general has not yet issued civilian subpoenas — known as civil investigative demands — to the companies. But state investigators plan to do so soon, though the precise timing is not yet set, said the two people familiar with the states' plan.

A smaller group of the state representatives met last month in Washington with antitrust officials at the Justice Department, which has started a broad antitrust review of the technology industry. The Federal Trade Commission has begun an antitrust investigation of Facebook, and it is reviewing the actions of other companies as well.

Lawmakers in Congress are investigating the industry as well. An antitrust hearing last month included executives from Apple, Amazon, Facebook and Google.

The states' plan to move forward with an investigation was first reported Monday by The Wall Street Journal.

The states can play a key role, often in concert with federal regulators and Congress, in building evidence and public support for major investigations. That was the pattern in the landmark antitrust case against Microsoft, when 20 states

joined the Justice Department in suing the software giant in 1998.

But major antitrust investigations can take years, whether they result in legal action or not. And unlike the Microsoft case, which focused on a single company, the pursuit of today's tech giants is more wide-ranging.

The review by the Justice Department, for example, is of competitive behavior by the dominant digital companies. Each of the big four that regulators are focused on — Google, Facebook, Amazon and Apple — operates in somewhat different markets, including internet search, online advertising, e-commerce and social networks.

The states' plan, though still taking shape, seems to be along the lines of the broader Justice Department review. The states have not formally agreed on a specific plan of action and details are still being discussed, said a senior attorney at one state attorney general office who spoke on the condition of anonymity because he was barred from discussing the investigation.

Amazon and Facebook declined to comment.

An Apple spokesman pointed to the company's previous statements, which have said that Apple faces fierce competition and helps thousands of companies reach customers. A representative for Google pointed to testimony from Adam Cohen, its director of economic policy, to Congress in July.

"In the face of intense competition, we are proud of our record of continued innovation," Mr. Cohen said at the time. "We have helped reduce prices and expand choice for consumers and merchants in the U.S. and around the world."

The state attorneys general offices did not make any formal comments on plans for an investigation. The tentative timing is that an announcement will be made in early September.

But the states did form a bipartisan, multistate unit called the Tech Industry Working Group months ago.

“As attorneys general, we need to evaluate and address specific conduct, utilizing our existing antitrust and consumer protection laws,” Jim Hood, the attorney general of Mississippi, a Democrat, said in a statement. He added that the working group was “looking at the intersection of technology and antitrust.”

What action, if any, should be taken to curb the market power of the big tech companies is uncertain. Proposals vary from breaking them up, a step endorsed by Senator Elizabeth Warren in her presidential campaign, to forcing them to share data to make it easier for rivals to compete.

But there is a growing criticism of the big tech companies, and increasing calls to rein them in.

In a congressional hearing last month, Representative David Cicilline, Democrat of Rhode Island, and chairman of the House antitrust subcommittee, said that the tech companies had brought innovation and growth to the economy.

But he added that their rise had come with too few restraints.

“In an effort to promote and continue this new economy, Congress and antitrust enforcers allowed these firms to regulate themselves with little oversight,” Mr. Cicilline said. “As a result, the internet has become increasingly concentrated, less open, and growingly hostile to innovation and entrepreneurship.”

Not everyone would agree with his critique. But the states, as well as federal antitrust watchdogs and Congress, are signaling the pendulum has swung and it is time for closer scrutiny and oversight.

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